

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

KATHLEEN DUNLAP as personal
representative of the estate of JAMES ROSS
DUNLAP, JR., deceased; KATHLEEN
DUNLAP,

Plaintiffs, No. 3:17-cv-01749-YY

v.

CITY OF SANDY,

Defendant. ORDER

HERNÁNDEZ, District Judge:

Magistrate Judge You issued a Findings and Recommendation [24] on June 4, 2018, in which she recommends the Court grant Defendant's motion to dismiss with prejudice, with leave to amend the Complaint to allege a procedural due process claim. Plaintiffs timely filed objections to the Findings and Recommendation. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the

Magistrate Judge's report. 28 U.S.C. § 636(b)(1); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

The Court has carefully considered Plaintiffs' objections and concludes that the objections do not provide a basis to modify the recommendation, with the following exception: As raised in section A.1 of Plaintiffs' Objections to the Magistrate Judge's Findings and Recommendation, Plaintiffs may amend the Complaint to allege what services, other than an arrest, Sandy Police denied Mr. Dunlap in violation of the Americans with Disabilities Act (ADA).

The Court has also reviewed the pertinent portions of the record *de novo* and finds no error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court adopts Magistrate Judge You's Findings and Recommendation [24]. Therefore, Defendant's motion to dismiss [10] is GRANTED, with leave to amend the Complaint to allege (1) what services, other than an arrest, Sandy Police denied Mr. Dunlap violation of the ADA and (2) a procedural due process claim. Any amended complaint shall be filed within 21 days of the date of this Order.

IT IS SO ORDERED.

DATED this 3 day of Oct, 2018.


MARCO A. HERNÁNDEZ
United States District Judge